

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA

Plaintiff/Respondent,

v.

JAMES REED HARRIS,

Defendant/Petitioner.

NO. CR88-60JET

ORDER

THIS MATTER comes on before the above-entitled Court upon Defendant's Motion for Certificate of Appealability.

Having considered the entirety of the record and files herein, the Court finds and rules as follows.

In order for the appeal to proceed, this Court must issue a Certificate of Appealability. See 28 U.S.C. 2253; United States v. Asrar, 108 F.3d 217 (9th Cir. 1997). For the certificate to issue, this Court must determine that "the applicant has made a substantial showing of the denial of a

1 constitutional right” and the Court must “indicate which specific issue or issues satisfy the showing.”
2 28 U.S. C. §2253(c)(2)-(3). If the Court denies the certificate, it must “state the reasons why such a
3 certificate should not issue.” Fed.R.APP.P. 22(b); Asrar, 108 F.3d at 218.

4 Title 28 U.S.C. §2255 prohibits the filing of a second or successive 2255 motion absent
5 certification from the Ninth Circuit Court of Appeals. 28 U.S.C. §2244(b)(3)(A). Defendant has
6 failed to receive authorization for filing such a motion. For this reason, the Court declines to issue a
7 Certificate of Appealability, as Defendant has failed to make “a substantial showing of the denial of a
8 constitutional right.” 28 U.S.C. §2253(c)(2).

9 IT IS SO ORDERED.

10 The clerk of the court is instructed to send uncertified copies of this Order to all
11 counsel of record.

12 DATED this 20th day of June, 2005.

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14 /s JACK E. TANNER

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16 JACK E. TANNER
17 SR. UNITED STATES DISTRICT JUDGE
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